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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,022	12/06/2001	Thomas James Dubil	US 018198	8991

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EXAMINER

BROWN, VERNAL U

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/020,022	Applicant(s) DUBIL ET AL.	
	Examiner Vernal U Brown	Art Unit 2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to communication filed on April 22, 2004.

Response to Arguments

Applicant's arguments filed 4/22/2004 have been fully considered but they are not persuasive.

Regarding applicant's argument regarding claim 1, Averbuch et al. teaches a battery charger/downloader (108) serving the purposes of charging the battery of a wireless communication unit and performing software downloads (col. 2 line 65-col. 3 line 2). Averbuch et al. teaches the battery charger/downloader includes a data interface over which data is downloaded and stored in the memory (col. 3 line 54-67) that suggests the receiving and transferring of selected data comprising the updated software.

Regarding applicant's argument regarding claim 6, Averbuch et al. teaches the downloaded software operates the electronic device via the rechargeable device (col. 4 lines 20-25).

Regarding applicant's argument concerning the programming device Averbuch et al. teaches the step of programming the charging device via the remote source (wireless portable device) to transmit the request signal to the server by setting a flag in the wireless device (col. 4 lines 54-60) and using this flag to determine when to download the software.

Regarding applicant's argument concerning claim 4 and 16, the reference of Reed is relied upon for teaching a rechargeable device functioning as a remote control (col. 5 lines 66-68), which represents a conventional practice.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-15, 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Averbuch et al. U.S Patent 5,689,825.

Regarding claim 1, Averbuch et al. teaches a charger system comprising:

a charger comprising coupling means for coupling to a rechargeable device (figure 1), wherein the coupling means includes charging means (108) for providing an electrical charge to the rechargeable device and means for transferring data to the rechargeable device (col. 2 lines 10-17); and means for receiving the data from a remote source and selectable transferring the data upon receipt to at least one of the means for transferring and a storage means of the charger (col. 2 lines 20-22).

Regarding claim 2, Averbuch et al. teaches the charging means provides an electrical charge to the rechargeable device and the means for transferring the data to the rechargeable device simultaneously (col. 2 line 65-col. 3 line 2) and 9col. 6 lines 54-56).

Regarding claim 3, Averbuch et al. teaches receiving data from the remote source over the internet (col. 5 lines 32-36).

Regarding claim 5, Averbuch et al. teaches downloading software to the portable device (col. 2 lines 10-12). Software programs inherently include executables.

Regarding claims 6 and 9, Averbuch et al. teaches downloading the software for operating the portable device (col. 2 lines 18-22). The downloaded software represents the operating instruction for the portable device and is considered schedule information because the software controls the operation of the portable device.

Regarding claims 7 and 13-15, Averbuch et al. teaches a method for providing data to a rechargeable electronic device comprising the steps of:
receiving data from a remote source via a charging device (col. 2 lines 10-16);
selectably storing the received data within the charging device (col. 2 lines 26-28);
coupling the rechargeable electronic device to the charging device (col. 2 lines 15-18);
charging the rechargeable electronic device and selectively transferring the stored data and the received data from the charging device to the rechargeable electronic device (col. 2 lines 30-35).

Regarding claim 8, Averbuch et al. teaches the remote source is a server (104) (col. 2 line 20) and initiating the transfer of data from the server (col. 2 lines 25-26).

Regarding claims 10-11, Averbuch et al. teaches the step of programming the charging device via the remote source (wireless portable device) to transmit the request signal to the server by setting a flag in the wireless device (col. 4 lines 54-60) and using this flag to determine when to download the software. The wireless device is also the charging device (col. 2 line 67-col. 3 line 2).

Art Unit: 2635

Regarding claim 12, Averbuch et al. teaches notifying the remote source of the availability of the charging device for receiving the data by initiating the software download (col. 2 lines 25-26).

Regarding claim 17, Averbuch et al. teaches the remote source is a server (104) and also teaches means for initiating transfer of the data from the server to the charging device by transmitting a request signal to the server (col. 2 lines 25-26).

Regarding claim 18, Averbuch et al. teaches means for initiating transfer of the data from the server to the charging device by transmitting a request signal to the server (col. 2 lines 25-26).

Regarding claim 19, Averbuch et al. teaches programming the charging device via the rechargeable electronic device to transmit the request signal to the server by setting a flag in the wireless device (col. 4 lines 54-60) and using this flag to determine when to download the software. The wireless device is also the charging device (col. 2 line 67-col. 3 line 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch et al. U.S Patent 5,689,825 in view of Reed U.S Patent 4,700,375.

Regarding claim 4, Averbuch et al. teaches a rechargeable portable device (col. 2 lines 10-17) but is silent on teaching the rechargeable device function as a remote control. Reed in an art related Battery charger and Data Transfer System teaches a rechargeable device functioning as a remote control (col. 5 lines 66-68), which is also a conventional practice.

It would have been obvious to one of ordinary skill in the art to have the rechargeable device function as a remote control in Averbuch et al. as evidenced by Reed because Averbuch et al. suggests a rechargeable portable device and Reed teaches a rechargeable device functioning as a remote control in order to control other devices.

Regarding claim 16, Averbuch et al. teaches downloading updated software to a rechargeable device (col. 6 lines 42-44) and processor (204) for processing the downloaded data but is silent on teaching means controlling an electronic device via the rechargeable electronic device. Reed in an art related Battery charger and Data Transfer System teaches a rechargeable device functioning as a remote control (col. 5 lines 66-68).

Art Unit: 2635

It would have been obvious to one of ordinary skill in the art to control an electronic device via the rechargeable electronic device in Averbuch et al. as evidenced by Reed because Averbuch et al. suggests a wireless rechargeable electronic device and Reed teaches an electronic rechargeable device functioning as a remote control.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U Brown whose telephone number is 703-305-3864. The examiner can normally be reached on 8:30-6:30 Mon-Thur.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 703-305-4704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vernal Brown
June 15, 2004

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

